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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,611	04/15/2004	Feng Ouyang	60707-1730	7525
24504 7590 07/28/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER KANGARLOO, RAMTIN				
ART UNIT 2619		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

<b>Application No.</b> 10/824,611	<b>Applicant(s)</b> OUYANG ET AL.
<b>Examiner</b> RAMTIN KANGARLOO	<b>Art Unit</b> 2619

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-21.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Chirag G Shah/  
Supervisory Patent Examiner, Art Unit 2619

/RAMTIN KANGARLOO/  
Examiner, Art Unit 2619

Continuation of 11, does NOT place the application in condition for allowance because: On page 10 of the applicant's response, applicant argued that Nelson et al. does not disclose "any type of bin allocation system or method". Examiner respectfully disagrees. As disclosed in col.5, lines 8-10 "in a manner similar to determining line impedance, the far end FFT bin complex value are used to determine the line frequency response" also in col. 6 lines 26-29 "A fundamental aspect of MDT (discrete multi-tone) modulation is the partitioning of the available bandwidth into frequency sub bands or bins". On page 10 of the applicant's response applicant also argued that "Li reference fails to disclose utilizing multiple test transmissions modes, as it appears to disclose determining a carrier frequency for a forward link rather than a transmission scheme including apportionment of the various transmission modes across the frequency range." Examiner respectfully disagrees. As disclosed in col. 3, lines 16-18 "The wireless links of the second cell 120 include a second forward and a second reverse link carrier, 194 and 195" In addition in col. 5, lines 8-35 Li discloses "for the purposes of illustration and clarity, only the first forward and first reverse link carriers 190, 192 are described in detail. However, it will be apparent that the explanation of carriers 190 and 192 also applies to the second forward and second reverse link carriers 194, 195 as well." Finally, in col. 5, lines 30-35 Li discloses "the resulting pilot channel QC information generated for each received forward link carrier by the mobile station 130 is then transmitted serially to the first BTS150 over the reverse link MAC channel for further comparisons and comparisons by the BTS 150. The reverse link MAC channel is typically a single reverse link carrier frequency spectra, perhaps chosen by the first BTS 150." On page 11 of the applicant's response, applicant argued that Li does not disclose "selecting from among multiple base transceiver station." Examiner respectfully disagrees. As disclosed in col.2, lines 62-66, "A mobile station (MS) 130 is shown positioned within an area of overlapping coverage of 115 of a first and second cell, 110 and 120, respectively. The MS130 is connected by wireless, or radio frequency (RF), link to a first base transceiver station (BTS) 150 and second BTS 170, respectively. In regards to claims 13, 16, and 19, Applicant argued that Li et al. does not disclose "any type of bin allocation system or method" and "utilizing multiple test transmissions modes, as it appears to disclose determining a carrier frequency for a forward link rather than a transmission scheme including apportionment of the various transmission modes across the frequency range" and "from among multiple base transceiver station". Examiner respectfully disagrees with the same reasons as discussed above.